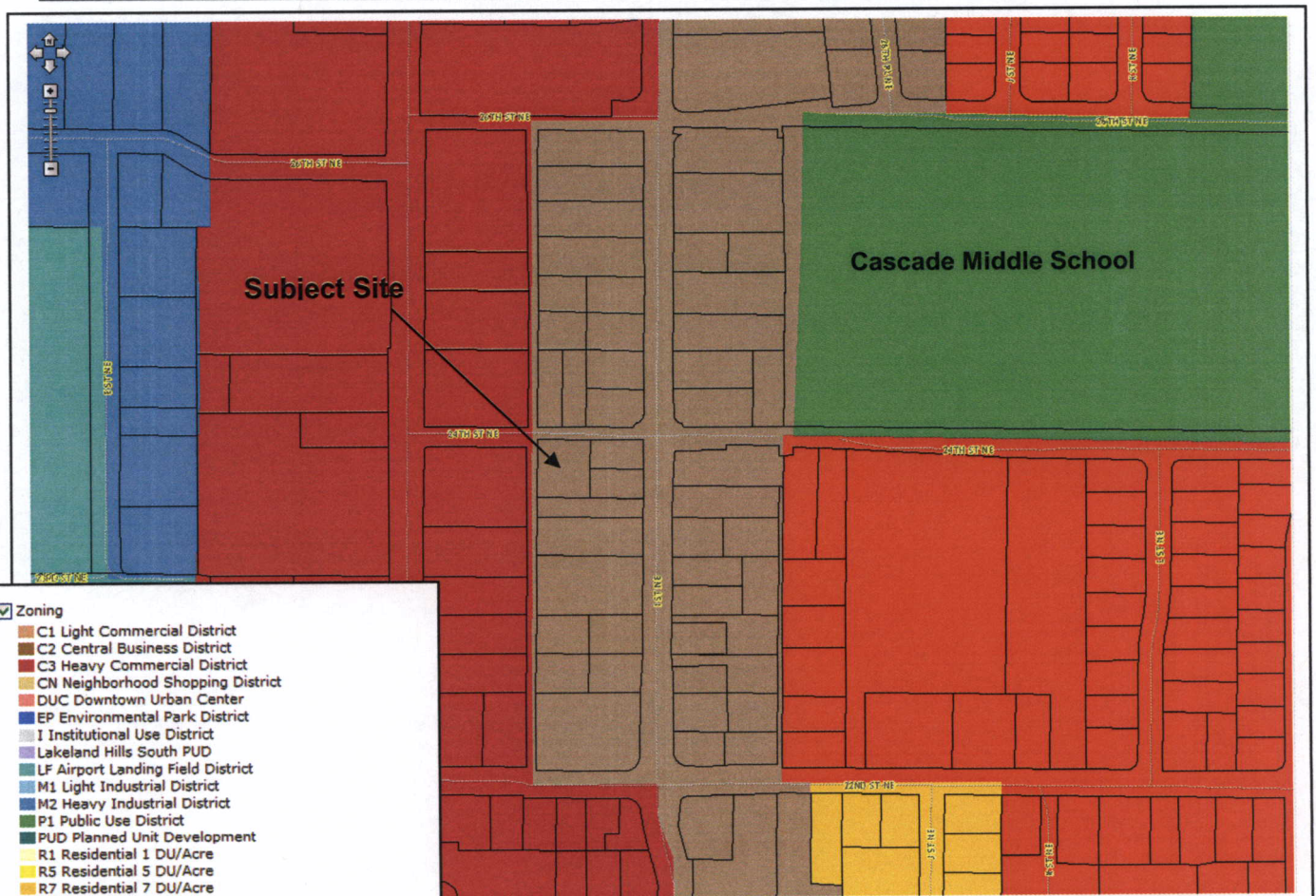


AGENDA BILL APPROVAL FORM

Agenda Subject: Ordinance No. 6292 Craig Commercial Rezone; Application No. REZ09-0004		Date: January 26, 2010						
Department: Planning and Development	Attachments: Ordinance No. 6292 and Exhibit List	Budget Impact: N/A						
Administrative Recommendation: City Council introduce and adopt Ordinance No. 6292.								
Background Summary: <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;">OWNER/APPLICANT:</div> <div>Jacob Amy, Applicant and William Kogelschatz, Owner</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 30%;">REQUEST: Heavy Commercial</div> <div>Change in zoning of one parcel from R-20 Residential (20 du/acre) to C-3</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 30%;">LOCATION:</div> <div>The property is located at 802 24th Street NE, Auburn</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 30%;">EXISTING LAND USE:</div> <div>Single Family Residence.</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 30%;">COMPREHENSIVE PLAN DESIGNATION:</div> <div>Heavy Commercial</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 30%;">SEPA STATUS:</div> <div>A DNS was issued on September 22, 2009 for the Comprehensive Plan land use change that took into account the rezone change.</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div>L0201-1</div> <div>O3.8 REZ09-0004</div> </div>								
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;"> Reviewed by Council & Committees: <input type="checkbox"/> Arts Commission <input type="checkbox"/> Airport <input checked="" type="checkbox"/> Hearing Examiner <input type="checkbox"/> Human Services <input type="checkbox"/> Park Board <input type="checkbox"/> Planning Comm. </td> <td style="width: 33%; vertical-align: top;"> COUNCIL COMMITTEES: <input type="checkbox"/> Finance <input type="checkbox"/> Municipal Serv. <input type="checkbox"/> Planning & CD <input type="checkbox"/> Public Works <input type="checkbox"/> Other _____ </td> <td style="width: 33%; vertical-align: top;"> Reviewed by Departments & Divisions: <input checked="" type="checkbox"/> Building <input type="checkbox"/> Cemetery <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Fire <input type="checkbox"/> Legal <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Information Services </td> </tr> <tr> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> M&O <input type="checkbox"/> Mayor <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Planning <input type="checkbox"/> Police <input type="checkbox"/> Human Resources </td> <td colspan="2"></td> </tr> </table>			Reviewed by Council & Committees: <input type="checkbox"/> Arts Commission <input type="checkbox"/> Airport <input checked="" type="checkbox"/> Hearing Examiner <input type="checkbox"/> Human Services <input type="checkbox"/> Park Board <input type="checkbox"/> Planning Comm.	COUNCIL COMMITTEES: <input type="checkbox"/> Finance <input type="checkbox"/> Municipal Serv. <input type="checkbox"/> Planning & CD <input type="checkbox"/> Public Works <input type="checkbox"/> Other _____	Reviewed by Departments & Divisions: <input checked="" type="checkbox"/> Building <input type="checkbox"/> Cemetery <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Fire <input type="checkbox"/> Legal <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Information Services	<input type="checkbox"/> M&O <input type="checkbox"/> Mayor <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Planning <input type="checkbox"/> Police <input type="checkbox"/> Human Resources		
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<input type="checkbox"/> M&O <input type="checkbox"/> Mayor <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Planning <input type="checkbox"/> Police <input type="checkbox"/> Human Resources								
Action: Committee Approval: <input type="checkbox"/> Yes <input type="checkbox"/> No Council Approval: <input type="checkbox"/> Yes <input type="checkbox"/> No Call for Public Hearing ___/___/___ Referred to _____ Until ___/___/___ Tabled _____ Until ___/___/___								
Councilmember: Norman		Staff: Snyder						
Meeting Date: February 1, 2010		Item Number: VIII.A.3						

The Comprehensive Plan designation, zoning designation and land uses of the surrounding properties are:

	Comprehensive Plan	Zoning	Land Use
Project Site	Heavy Commercial	R-20, Residential (20 du/acre)	Single family residence
North	High Density Residential	R-20, Residential (20 du/acre)	Apartments
South	High Density Residential	R-20, Residential (20 du/acre)	Townhomes
East	High Density Residential	R-20, Residential (20 du/acre)	Single family residence
West	Heavy Commercial	C-3 Heavy Commercial	Sound Credit Union



FINDINGS OF FACT:

1. DMP, Inc., on behalf of Jacob Amy and William Kogelschatz, has applied for a rezone for property located at 802 24th Street NE.
 2. A Comprehensive Plan Land Use Map amendment was applied for concurrently with the rezone on June 17, 2009. The applicant requested a land use change from High Density Residential to Heavy Commercial. The City Council approved the amendment on December 7, 2009 by Ordinance No. 6280.
 3. The rezone site at 24th Street NE is approximately .3 acres (13,068 square feet) in size and contains an existing single family residence. The future development will require the single family residence to be demolished.
 4. The applicant filed an environmental checklist that addressed the comprehensive plan amendment and rezone. A description of future development of the property was included. The proposal is to develop the site with a maximum of 11 multi-family dwelling units, parking, landscaping, and infrastructure improvements (Exhibit 4).
 5. The C-3 (Heavy Commercial) zone district allows multi-family development with a conditional use permit (see ACC 18.30.030). The intent of the C-3 zone is,

"...this zone is intended to accommodate uses which are oriented to automobiles either as the mode or target or producing the commercial service. The uses enumerated in this classification are considered as having common or similar performance standards in that they are heavier in type than those uses permitted in the more restrictive commercial classifications."
 6. The C-3 zone development standards including setbacks and lot requirements are contained in ACC 18.30.040.
 7. Pursuant to ACC 18.68.030 and 18.68.040, all applications for a rezone shall be reviewed by the planning director prior to the scheduling of a public hearing. After review of the application, the director shall determine which of the following two processes should occur to properly hear the rezone:
 - a. If the rezone is consistent with the comprehensive plan, then the hearing examiner shall conduct a public hearing on the rezone and make a recommendation to the city council pursuant to ACC 18.66.170.
- This application is consistent with the comprehensive plan, as outlined below in the conclusions.
8. On September 22, 2009, the SEPA Responsible Official issued a Determination of Non-Significance (DNS) for the comprehensive plan land use amendment that also took into account the rezone. There were no comments received and no appeals filed (Exhibit 8).
 9. Pursuant to ACC 18.68.040, notice of a public hearing shall be given at least 10 days prior to the public hearing and in accordance with ACC 14.07.040. The public hearing notice was published in the Seattle Times December 29, 2009, provided to the property owners within 300 feet of the subject site, and posted on the subject property meeting this requirement (Exhibit 5).
 10. The City Council changed their role in quasi-judicial approvals giving that authority to Hearing Examiner to make decisions. Since rezones are approved by Ordinance the City Council is still

the decision maker on rezones with the Hearing Examiner making a recommendation on the proposal.

11. 24th Street NE is a local non-residential street and this road classification supports the rezone request. However the current roadway is not constructed to current local non-residential street standards. The proposed multi-family development will require the need for roadway improvements and dedication of right of way along the site frontage and adjacent alley.
12. A comprehensive plan map amendment was processed as part of the 2009 Comprehensive Plan Annual Amendments. The City Council approved a land use map change from High Density Residential to Heavy Commercial by Ordinance No. 6280 on December 7, 2009 (Exhibit 10)
13. The City received one comment letter from the adjacent property owner to the south (Exhibit 11).
14. A public hearing was held before the City of Auburn Hearing Examiner on January 13, 2010.
15. The City of Auburn Hearing Examiner issued a recommendation of approval on January 25, 2010.

CONCLUSIONS:

ACC Chapter 18.68 provides certain criteria for approval of a rezone:

1. The rezone must be consistent with the Comprehensive Plan.

Comment

The applicant applied for both a rezone and comprehensive plan amendment on June 17, 2009. The comprehensive plan amendment was processed as part of the 2009 annual amendments. The land use map amendment request was from High Density Residential to Heavy Commercial. On December 7, 2009 the City Council approved the comprehensive plan amendments through Ordinance No. 6280 (Exhibit 10).

Policy LU-34 states that multiple-family developments should be located functionally convenient to the necessary supporting facilities including utilities, arterials, parks, transit service, etc. Pursuant to Chapter 14 of the Comprehensive Plan, Heavy Commercial is to provide automobile oriented commercial areas to meet both the local and regional need for such services. Compatible uses are automobile sales, restaurants, convenience stores, and other similar heavy commercial uses.

A major goal of the Growth Management Act is to reduce urban sprawl. One way to minimize sprawl is to fully develop areas already receiving urban services. Policy LU-114 states, "Encourage well designed infill and redevelopment projects to fully utilize investment in existing infrastructure." The proposed rezone will set the framework for an 11-unit multi-family development that redevelops an underutilized lot. Also, the subject site is within ¼ mile of transit service, schools, and Auburn Way North is west one block.

2. The rezone must be initiated by someone other than the City in order for the Hearing Examiner to consider the request.

Comment

The rezone has been initiated by the property owner, William Kogelschatz and applicant, Jacob Amy.

3. Any changes or modifications to a rezone request made by either the Hearing Examiner or City Council will not result in a more intense zone than the one requested.

Comment

The requested rezone change, from R-4 Residential (20 du/acre), to C-3, Heavy Commercial, will not result in a more intense zone than what is requested.

In addition, the Washington State Supreme Court has identified other general rules for rezone applications (see *Parkridge v. Seattle*, 89 Wn.2d.454; 573 P.2d 359 (1978)):

a. Conditions in the area must have changed since the original zoning was established.

Comment

The subject property has been zoned R-4, High Density Residential (Now re-named R-20), when the City adopted its revised zoning code (overhaul) in 1987. The density established for the R-4 zone, was 18 du/acre and remained that density until the recent code changes (June 15, 2009) that slightly increased the density to 20 du/acre; although the revised density is net density rather than gross density. Multi-family development in the C-3 zone, at a density of 36 du/acre has been a conditional use since the 1987 zoning became effective and that regulation is still in effect today. The primary reason for the rezone request is to construct additional units on the subject site. Under the current zoning of R-20 a maximum of six units is possible. With the proposed rezone a maximum of eleven units is possible. When the density was established for the R-4 (now R-20) zone, the Growth Management Act did not exist, requiring jurisdictions to accommodate a certain amount of urban growth. Staff supports the increased density at the project site to accommodate Auburn's fair share of growth; as well as the property is within a ¼ mile of transit, near other services such as schools, and one block Auburn Way North.

b. The proposed rezone must bear a substantial relationship to the general welfare of the community.

The property as currently zoned could be developed with multi-family units, however, only with a maximum of six units. With the proposed rezone, a maximum of eleven units could be realized. This supports the City's goal of achieving our growth targets over the next twenty years established by King County and meet infill development policies of the comprehensive plan.

STAFF RECOMMENDATION

Based upon the application and Findings of Fact and Conclusions of the staff report, staff recommends that the Hearing Examiner recommend to the City Council approval of the rezone with the following conditions of approval:

1. Future development of the property shall only be multi-family units. Commercial uses are prohibited.
2. As part of the future development, the applicant shall dedicate twelve (12) feet for right-of-way along the 24th Street NE property frontage.
3. As part of the future development, the applicant shall dedicate nine (9) feet for right-of-way radius at the property corner of the intersection at 24th Street NE and the alley bordering the west side of the property.

4. Construct 1/2 street improvements to city standards for a local non residential road on 24th Ave NE.
5. Reconstruct and add additional paving along the site frontage with the alley bordering the west side of the subject property to create a twenty foot paved surface and appropriate alley drainage to the existing storm system in 24th St NE.

HEARING EXAMINER RECOMMENDATION

After conducting a duly advertised public hearing, the Hearing Examiner issued his recommendation of approval on January 25, 2010 with five conditions of approval:

1. Future development of the property shall only be multi-family units. Commercial uses are prohibited.
2. As part of the future development, the applicant shall dedicate twelve (12) feet for right-of-way along the 24th Street NE property frontage.
3. As part of the future development, the applicant shall dedicate nine (9) feet for right-of-way radius at the property corner of the intersection at 24th Street NE and the alley bordering the west side of the property.
4. Construct 1/2 street improvements to city standards for a local non-residential road on 24th Avenue NE.
5. Reconstruct and add additional paving along the site frontage with the alley bordering the west side of the subject property to create a twenty-foot paved surface and appropriate alley drainage to the existing storm system in 24th Street NE.

EXHIBIT LIST

Exhibit 1	Staff Report (agenda bill)
Exhibit 2	Vicinity Map
Exhibit 3	Application
Exhibit 4	Site Plan
Exhibit 5**	Combined Notice of Application and Public Hearing
Exhibit 6**	Affidavit of Posting
Exhibit 7**	Affidavit of Mailing
Exhibit 8**	Determination of Non-Significance
Exhibit 9	Aerial Photograph
Exhibit 10	Ordinance No. 6280
Exhibit 11**	Affidavit of Publication from Seattle Times, received December 30, 2009; submitted into record at hearing
Exhibit 12	Comment letter from Sam DiRe, received January 13, 2010; submitted into record at hearing

*****Exhibits with an asterisk are not included in the packet but are available upon request.***

ORDINANCE NO. 6 2 9 2

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, APPROVING THE REQUEST OF JACOB AMY FOR A REZONE FROM R-20 RESIDENTIAL 20 DU/ACRE TO C-3 HEAVY COMMERCIAL TO IMPLEMENT THE COMPREHENSIVE PLAN AND AMENDING THE CITY'S ZONING MAPS ACCORDINGLY

WHEREAS, the City of Auburn on August 18, 1986 adopted a Comprehensive Plan by Resolution No. 1703 which includes a Map establishing the location of the Comprehensive Plan Land Use Designations throughout the City; and

WHEREAS, on April 17, 1995 the City of Auburn adopted Comprehensive Plan Amendments by Resolution No. 2635 to comply with the Washington State Growth Management Act; and

WHEREAS, the City of Auburn on September 5, 1995 reaffirmed that action by Ordinance No. 4788; and

WHEREAS, Jacob Amy, the applicant, submitted a Comprehensive Plan map amendment and rezone application for the Craig Commercial rezone on June 17, 2009 for tax parcel 5125400241; and

WHEREAS, Comprehensive Plan map and text amendments were processed by the Planning and Development Department as proposed Year 2009 amendments to the City of Auburn Comprehensive Plan, and the City of Auburn adopted the 2009 Comprehensive Plan amendments on December 7, 2009 by Ordinance No. 6280; and

WHEREAS, the environmental impacts of the Year 2009 Comprehensive Plan amendments were considered in accordance with procedures of the State Environmental Policy Act; and

WHEREAS, the environmental impacts of the Craig Commercial Rezone were considered in accordance with the procedures of the State Environmental Policy Act; and

WHEREAS, after proper notice published in the City's official newspaper at least ten (10) days prior to the date of hearing, the City of Auburn Hearing Examiner on January 13, 2010 conducted a public hearing on the proposed Craig Commercial Rezone; and

WHEREAS, at the public hearing the City of Auburn Hearing Examiner heard public testimony and took evidence and exhibits into consideration; and

WHEREAS, thereafter the City of Auburn Hearing Examiner made a recommendation to the City Council on the proposed Craig Commercial Rezone; and

WHEREAS, on February 1, 2010, the Auburn City Council considered the proposed Craig Commercial Rezone as recommended by the City of Auburn Hearing Examiner.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The City Council ("Council) adopts and approves the Craig Commercial rezone from R-20 Residential (20 du/acre) to C-3 Heavy Commercial and

directs that the rezone application and all related documents be filed along with this Ordinance with the Auburn City Clerk and be available for public inspection.

Section 2. The Zoning Map amendment is herewith designated as a basis for the exercise of substantive authority under the Washington State Environmental Policy Act by the City's responsible environmental official in accordance with RCW. 43.21C.060.

Section 3. The Council adopts the Findings of Fact and Conclusions of Law, in the Hearing Examiner's recommendation outlined below:

FINDINGS OF FACT

Procedural:

1. **Applicant.** The applicant is Jacob Amy, and the owner is William Kogelschatz.
2. **Hearing.** The Hearing Examiner conducted a hearing on the application at 5:30 p.m. at Auburn City Hall in the Council Chambers on January 13, 2010.

Substantive:

3. **Site/Proposal Description.** The applicant has applied for the rezoning of one parcel, totaling approximately three acres, which is located off of 24th Avenue NE. The site currently houses a single-family residence.
4. **Characteristics of the Area.** The subject property is surrounded by apartments to the North, Townhomes to the South, a single-family residence to the East, and a Credit Union to the West. Generally, the surrounding area is made up primarily of multi-family properties. The surrounding zoning includes R-20 Residential and C-3 Heavy Commercial. Additionally, the surrounding Comprehensive Plan designations are High Density Residential and Heavy Commercial.
5. **Adverse Impacts.** The proposed rezone, as conditioned, will be limited to a modest increase in density. As noted during public testimony, the increase in density will allow for the construction of three-story multifamily complexes instead of two-story complexes. Three-story townhomes are already located behind the

subject property, so there is no apparent compatibility or other adverse impact discernable from the record.

In both written (Exhibit 12) and verbal testimony during the hearing, Sam Di Re expressed concerns over garbage and disruptive behavior associated with high density development. Mr. Di Re does not appear to be basing his comments on the type of development (e.g., apartments v. single-family homes v. townhomes), but simply from the premise that if you have x incidents per y number of people, incidents will increase as the number of people increases. From a municipal government standpoint, Mr. Di Re appears to be stating that the City has inadequate police and code enforcement resources to handle the increased population that will result from the rezone.

There are a couple reasons why Mr. Di Re's concerns cannot be addressed in this rezone proceeding. First, Mr. Di Re does not identify any level of service requirement for police and code enforcement that the Examiner could impose upon the development. The adequacy of police and code enforcement is a highly subjective determination. Without an objective standard that can be applied uniformly to all multifamily development, any effort by the Examiner to address garbage and other potentially illegal conduct would be construed as arbitrary and capricious by a reviewing court. Certainly if there was something highly unusual about the project that would make it more likely to generate illicit conduct than other multifamily developments, the Examiner could address Mr. Di Re's concerns, but there is nothing unusual about the project proposed. Indeed, no specific development proposal is even identified at this point.

The second reason that Mr. Di Re's concerns cannot be addressed during rezone review is that the increase in density (three dwelling units) proposed is marginal, and there is no evidence that this slight increase will generate any material increase in illicit conduct. The City does not have sufficient evidence to find that the proposed increase in density will necessitate any restrictions (including rezone denial) to prevent illicit behavior.

Although this proceeding may not be the most appropriate to address Mr. Di Re's concerns, his concerns will certainly be heard by the Mayor and City Council during this rezone review. If there is a problem with garbage and illegal behavior in Mr. Di Re's neighborhood, the Mayor and Council can take steps to address it outside this land use review process.

CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner. ACC 18.68.030(B) grants the Hearing Examiner with the authority to review a request for Rezoning and make a recommendation to the City Council for final approval.

Substantive:

2. Zoning Designation. The property is zoned R-20, Residential, and the Comprehensive Plan designation is Heavy Commercial.
3. Review Criteria and Application. ACC 18.68.030(B) and 18.68.050 lay out the criteria the Hearing Examiner must consider when determining a recommendation.

In addition to the code criteria, Washington appellate courts have imposed some criteria themselves, requiring that the proponents of a rezone must establish that conditions have substantially changed since the original showing and that the rezone must bear a substantial relationship to the public health, safety, morals or welfare. See *Ahmann-Yamane, LLC v. Tabler*, 105 Wn. App. 103, 111 (2001). However, no change in circumstances is necessary for rezones that implement a comprehensive plan. *Id.* at 112.

The criteria for both the ACC and *Ahmann-Yamane* are satisfied as outlined below where each criterion is in italics and the application to the project is applied in corresponding Conclusions of Law.

ACC 18.64.030(B)(1)(a): *If the rezone is consistent with the comprehensive plan, then the hearing examiner shall conduct a public hearing on the rezone and make a recommendation to the city council pursuant to ACC 18.66.170.*

4. The Comprehensive Plan Land Use Map designation for the property is Heavy Commercial. The only corresponding Zoning Map designation that is consistent with this Comprehensive Plan designation is Heavy Commercial, the reclassification requested by the applicant. Consequently, the rezone is consistent with the comprehensive plan.

ACC 18.64.050(A): *The modification or change shall not result in a more intense zone than the one requested.*

ACC 18.64.050(B): *The area of the request shall not be enlarged, however, the area may be lessened.*

5. The recommended reclassification is the reclassification requested by the applicant, and there is no recommendation to change the size of the area subject to the request.

Ahmann-Yamane Condition 1: *Conditions in the area must have changed since the original zoning was established. However, no change in circumstances is necessary for rezones that implement a comprehensive plan.*

6. As noted in Conclusion of Law No. 4, the proposed Heavy Commercial reclassification is the only Zoning Code designation that is consistent with the Comprehensive Plan Heavy Commercial designation. Consequently, the proposed reclassification is necessary to implement the Comprehensive Plan designation. No change in circumstances needs to be demonstrated.

Ahmann-Yamane Condition 2: *The proposed rezone must bear a substantial relationship to the general welfare of the community.*

7. With the proposed rezone, a maximum of eleven apartment units could be constructed on the site, as opposed to only six under the current zoning requirements. This supports the City's goal of achieving growth targets over the next twenty years as established by King County, to meet infill development policies of the comprehensive plan, and to prevent urban sprawl. However, it must also be noted that the proposed reclassification is for a parcel surrounded on three sides by zoning limited to residential use (R-20), as part of a four-block area limited to residential use. Unrestricted, approval of the proposed reclassification would allow the development of commercial uses in an area limited to residential development. This could result in incompatible uses that do not promote the general welfare of the community. The City Council approved the a Comprehensive Plan redesignation of the parcel from R-20 to Heavy Commercial with the understanding that the Zoning Code reclassification would be conditioned on limiting development to residential use. In order to carry out this Council intent and to maintain a substantial relationship to the general welfare of the community, the Examiner recommends that the redesignation be limited to residential use as recommended in the staff report.

Staff have also recommended conditions to assure adequate traffic infrastructure for the more intense development authorized by the reclassification. The Examiner finds these conditions necessary for the general welfare as well. However, the Council may find that the conditions are premature at the rezone

stage of development. The conditions regarding street improvements are required "as part of future development". The developer has no obligation to commence development at anytime in the near future. By the time the developer does get around to developing the entire property, the conditions may no longer be appropriate, due to a change in circumstances such as the completion of new road projects. For these types of reasons, street frontage requirements are usually imposed during the review of a specific project (such as site plan or conditional use permit review), as opposed to rezones.

It is the Examiner's understanding that conditioning rezones is a common practice in Auburn. The Council is cautioned that there is a difference in legal opinion on whether conditioning rezones is consistent with state mandated Zoning Code amendment procedures. At least to the extent conditions limit uses, those conditions arguably create a new Zoning Code map classification. All new Zoning Code map classifications should go through planning commission review and review by the Washington State Department of Commerce as mandated by the Washington State Growth Management Act (Chapter 36.70A RCW) and the Planning and Zoning in Code Cities Act (Chapter 35A.63 RCW). Of course, the counter-argument is that a public hearing has been held for the proposed rezone and that a hearing examiner can be designated as the planning commission for Zoning Code amendments. The differences in review are fairly minor. The Council may wish to acquire advice from its City Attorney on this issue. In lieu of imposing the conditions as part of the rezone, the Council could impose them as part of a rezone agreement adopted under the procedural requirements of RCW 36.70B.170-.200.

RECOMMENDATION

The Hearing Examiner recommends approval of REZ09-0004, subject to the following conditions:

1. Future development of the property shall only be multi-family units. Commercial uses are prohibited.
2. As part of the future development, the applicant shall dedicate twelve (12) feet for right-of-way along the 24th Street NE property frontage.
3. As part of the future development, the applicant shall dedicate nine (9) feet for right-of-way radius at the property corner of the intersection at 24th Street NE and the alley bordering the west side of the property.

4. Construct 1/2 street improvements to city standards for a local non-residential road on 24th Avenue NE.
5. Reconstruct and add additional paving along the site frontage with the alley bordering the west side of the subject property to create a twenty-foot paved surface and appropriate alley drainage to the existing storm system in 24th Street NE.

Section 4. Upon the passage, approval, and publication of this Ordinance as provided by law, the City Clerk of the City of Auburn shall cause this Ordinance to be recorded in the office of the King County Recorder.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any of the Zoning Map amendments adopted herein, is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 6. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 7. This Ordinance shall take effect and be in force five days from and after its passage, approval, and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

Peter B. Lewis
Mayor

ATTEST:

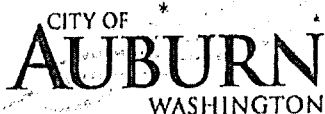
Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:



Daniel B. Heid,
City Attorney

Published: _____



JUN 17 2009

Planning, Building, and Community Department

MASTER LAND USE APPLICATION – PLANNING APPLICATIONS

Project Name Craig Commercial Date 12/12/2008

Parcel No(s) 5125400241 Site Address 802 24th St NE, Auburn

Legal Description (attached separate sheet if necessary) BLK 1 LOT 48-49-50 MAPPLEWOOD ADD TO AUBURN W 110 FT

Applicant

Name: Jacob J. Amy
Mailing Address: PO Box 190, Auburn, WA 98071
Telephone and Fax: 206-251-1801-Fax 253-867-0811
Email: jacob.amy@wecl.biz
Signature:

Owner (if more than one attach another sheet)

Name: William Kogelschatz
Mailing Address: PO Box 190, Auburn, WA 98071
Telephone and Fax: 206-679-1000-Fax 206-374-6217
Email: william.craig@wecl.biz
Signature:

Engineer/Architecture/Other

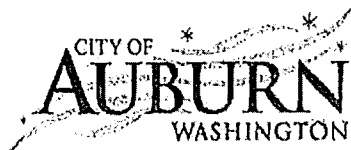
Name: Hans Korge @ DMP, Inc
Mailing Address: 726 Auburn Way North, Auburn, WA 98002
Telephone and Fax: 253-333-2200-Fax 253-333-2206
Email: hans@dmp-inc.us

Description of Proposed Action:

Zoning change from R4 to C3 with the associate comprehensive plan amendment.

Type of Application Required (Check all that Apply)

<input type="checkbox"/>	Administrative Appeal*	<input checked="" type="checkbox"/>	Rezone (site specific)* Area Wide
<input type="checkbox"/>	Administrative Use Permit*	<input type="checkbox"/>	Short Plat
<input type="checkbox"/>	Annexation*	<input type="checkbox"/>	Special Exception*
<input type="checkbox"/>	Boundary Line Adjustment	<input type="checkbox"/>	Special Home Occupation Permit*
<input checked="" type="checkbox"/>	Comprehensive Plan Amendment (Text or Map)*	<input type="checkbox"/>	Substantial Shoreline Development*
<input type="checkbox"/>	Conditional Use Permit*	<input type="checkbox"/>	Surface Mining Permit*
<input type="checkbox"/>	Critical Areas Variance*	<input type="checkbox"/>	Temporary Use Permit
<input type="checkbox"/>	Development Agreement*	<input type="checkbox"/>	Variance*
<input type="checkbox"/>	Environmental Review (SEPA)*	<input type="checkbox"/>	*Please note that public notification is required. A separate cost is charged for the signs. City prepares signs but applicant responsible for sign posting.
<input type="checkbox"/>	Final Plat	<input type="checkbox"/>	
<input type="checkbox"/>	Preliminary Plat*	<input type="checkbox"/>	
<input type="checkbox"/>	PUD Site Plan Approval	<input type="checkbox"/>	
<input type="checkbox"/>	Reasonable Use Exception*	<input type="checkbox"/>	



Planning, Building, and Community Department

LETTER FROM PROPERTY OWNER GRANTING AUTHORIZATION TO ACT
(A copy of this letter must be submitted for each property owner involved)

I, William C. Kogelschatz, being duly sworn declare that I am the owner of the property
(PROPERTY OWNER)

Involved in the application. I hereby grant Jacob J. Amy

of The William Craig Company to act on my behalf. I further declare that all

statements, answers, and information herein submitted is in all respects true and correct to the

best of my knowledge and belief.

[Signature]
Signature

12/10/08
Date

13311 SE 290th ST
Auburn, WA 98071
Address

Subscribed and sworn to before me this 10th day of December, 2008

Notary Public in and for the State of Washington, Shawnallyn Davis

Residing at Auburn, Washington

SHAWNALLYN DAVIS
NOTARY PUBLIC
STATE OF WASHINGTON
MY COMMISSION EXPIRES 07/06/2011

dmp, inc.

DALEY-MORROW-POBLETE, INC.

726 AUBURN WAY N.
AUBURN, WASHINGTON 98002
TELEPHONE: (253) 333-2200
FAX: (253) 333-2206

December 12, 2008

Dear Auburn City Council,

We request that the City Council approve our request to re-zone the parcel located at 802 - 24th Street NE, Auburn (512540-0241) from R4 (R-20) to C3. We also request that the Council approve the corresponding modification of the Comprehensive Plan. Under the R-4 (R-20) zoning the property can only be developed to a maximum of 5(6) units. Under the current lending guidelines, and considering the known infrastructure improvement costs, the current zoning will not provide sufficient income to justify the investment needed to develop the property.

Assuming a successful re-zone of the property, the Applicant proposes to construct a 10-unit apartment building on the property through a conditional use permit. A review of the surrounding uses shows that the existing single-family home is located in a neighborhood that is dominated primarily by multi-family properties. This lot is located directly behind the Sound Credit Union on Auburn Way and the adjoining property to the South is an 11-unit (3-story) town-home complex. The property is within close proximity to the bus lines, as well as other basic services that are within walking distance.

With this changing economy, and the drop in home ownership, it is clear that the need for additional rental units that will appeal to the middle income community are a necessity. By supporting this proposed re-zone, the Applicant will be able to offer quality rental units for those who cannot afford to buy a home at this time, while providing a quality living environment that will draw more of the middle income population to the area.

The Applicant submits the following responses to the 10 review criteria established in ACC Section 14.22.110, for the amendment of the comprehensive plan:

- 1. The proposed change will further and be consistent with the goals and objectives of the plan and the plan will remain internally consistent;**

The City of Auburn wishes to preserve the integrity of existing Single-family neighborhoods and promote the development of new ones. In the words of the Comprehensive plan this would be best accomplished by focusing multi-family development in the urban center. Consequently, residential land use policies will emphasize the creation and preservation of single family neighborhoods, while still encouraging the development of other housing types for those who need or want them.

JUN 17 2009

DALEY-MORROW-POBLETE
PLANNING DIVISION

To support these goals, the City has established a series of policies that have been used to guide zoning and development regulations. Under Land Use Policy 13 (LU-13) the City is encouraged to provide a mix of housing types to meet the needs of all residents. LU-18 and LU-34 further recommends that multi-family developments be located near transit service, shopping and parks. The applicant's proposal meets each of these policies and is located within one block of a bus stop, two blocks from Top Foods grocery store and one block from Cascade Middle School & Brannan Park. Please see the full text of each supporting policy below.

LU-13 the City should promote the provision, preservation and maintenance of adequate housing for the city's residents by encouraging a balanced mix of housing types and values appropriate to the income levels and lifestyles of area residents.

LU-18 Residential densities in areas designated for multiple family development should not exceed 20 units per acre. Multiple family densities should generally decrease with proximity to single family areas. Multiple family densities may exceed 20 units per acre provided they are within walking distance of 1/4 mile from regional transit facilities or are targeted to populations not requiring outdoor recreation areas and having low private automobile usage (e.g. nursing homes). These targeted developments should be located in close proximity to shopping, medical and public transportation services.

LU-32 In considering where future higher density development should locate, priority shall be given to designated Special Planning Areas, the Downtown and areas with high levels of transit service.

LU-34 Multiple-family developments should be located functionally convenient to the necessary supporting facilities including utilities, arterials, parks, transit service, etc.

In addition to preserving Single-family neighborhoods and placing multi-family developments as a buffer to more intense commercial uses, the comprehensive plan also promotes the redevelopment of underutilized areas. Goal 12 and its associated policies encourage redevelopment to reduce sprawl and take full advantage of the City's investment in existing infrastructure. The Applicant proposes to redevelop an existing single-family home, in a high density residential zone, into a 10-unit apartment complex. The 9-unit net increase in residential capacity will make full use of the existing City infrastructure and provide a quality living environment within walking distance of urban services. The City of Auburn is directed by the comprehensive plan to facilitate redevelopment whenever possible and explore innovative mechanisms to accomplish its goals. It is clear that the Applicant's proposal to re-zone the

property to achieve an economically feasible multi-family infill development through commercial zoning is truly innovative. The full text of each relevant policy is listed below.

***LU-114** Encourage well designed infill and redevelopment projects to fully utilize previous investment in existing infrastructure.*

***LU-115** Reduce the consumption of undeveloped land by facilitating the redevelopment of underutilized land and infill of vacant parcels whenever possible.*

***LU-116** Explore innovative mechanisms to encourage the more efficient use of land including density bonuses and sale of air rights.*

***LU-117** Identify areas for commercial infill development and focus street and utility systems improvements to facilitate their development.*

2. Whether the capacity to provide adequate services is diminished or increased;

The property is currently serviced by public sewer and water. The proposed development of a 10-unit apartment complex will not adversely effect service capacity in the area. This is an infill proposal that will take full advantage of the existing public investment in infrastructure. As the result of a successful re-zone and development of the site, the project will provide full frontage improvements including the expansion of sidewalks. These improvements will increase automobile and pedestrian safety in the immediate area.

3. Assumptions upon which the comprehensive plan is based are found to be invalid;

The Applicant is not questioning the validity of any underlying Comprehensive Plan assumption. A portion of the subject property falls within the Heavy Commercial designation. We seek to expand that designation to include the entire site.

4. A determination of change or lack of change in conditions or circumstances has occurred since the adoption of the latest amendment to the specific section of the comprehensive plan that dictates the need for a proposed amendment;

A portion of the subject property falls within the Heavy Commercial Comprehensive plan designation. We seek to expand that designation to include the entire site and re-zone the property accordingly. It is most-often inadvisable to have a property with a split designation. The landscape of the national economy and the local housing market have radically changed in the last year, and many residents find themselves in need of more reasonable housing that is

close to public services. The proposed quality development can address the economic, traffic and climate related issues that have been thrust to the forefront since the last map update in this area.

5. **If applicable, a determination that a question of consistency exists between the comprehensive plan and Chapter 36.70A RCW, the countywide planning policies for either King and/or Pierce County, as appropriate, and Vision 2040: Growth and Transportation Strategy for the Puget Sound Region;**

This element is not applicable.

6. **If the request is to change the land use designation of a specific property on the comprehensive land use map, the applicant must demonstrate one of the following:**

- a. **The current land use designation was clearly made in error or due to an oversight;**

A portion of the subject site falls within the Heavy Commercial designation while the majority lies in the High Density residential zone. The proposed alteration would place the entire property completely within the Heavy Commercial Zone.

- b. **The proposed land use designation is adjacent to property having a similar or compatible designation, or other conditions are present to ensure compatibility with surrounding properties;**

The surrounding properties on the west side of the Alley are all within the Heavy Commercial designation. Sound Credit union is located to the west of the property and an 11-unit town home development is under construction to the south. The proposed alteration would be consistent with that adjacent comprehensive plan designation. The Applicant proposal to ultimately develop a 10-unit Apartment complex would be more compatible with the surrounding uses than the existing single-family home.

- c. **There has been a change in conditions since the current land use designation came into effect.**

A portion of this site has been designated Heavy Commercial since the current land use designation came into effect. This mixed designation is an indication of a transition zone. The Applicant's proposal to alter the Comprehensive Plan designation to allow for higher residential density would provide that transition between true "Commercial" uses and the surrounding High Density Residential zone.

7. Identify anticipated Impacts from the proposal:

The proposed re-zone and associated comprehensive plan change are not expected to have an adverse impact on the City or surrounding neighborhood. The proposed C-3 zoning is consistent with the adjacent commercial uses to the west and the proposed multi-family development will be similar to the project already under construction to the south. All urban services are available to the site and the proposed development will complete the needed frontage improvements along 24th St NE.

8. Identify implementing zoning designation being requested:

The Applicant is requesting a rezone from R-4 to C-3.

9. Discuss how the proposed change is consistent with the designation of surrounding properties.

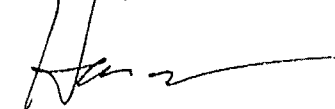
As previously indicated, the proposed C-3 zoning is consistent with the adjacent commercial uses to the west and the proposed multi-family development will be similar to the project already under construction to the south.

10. Discuss how the adopted City of Auburn capital improvement programs support the change:

The proposed re-zone has no impact on the adopted City of Auburn capital Improvement programs. The proposed development that would result from a successful re-zone application will make use of existing public facilities and make any minor extension to support the development. The proposed development will also complete the needed frontage improvements along 24th St NE and relieve the City from the cost of completing that road segment.

Thank you for your consideration.

Sincerely,



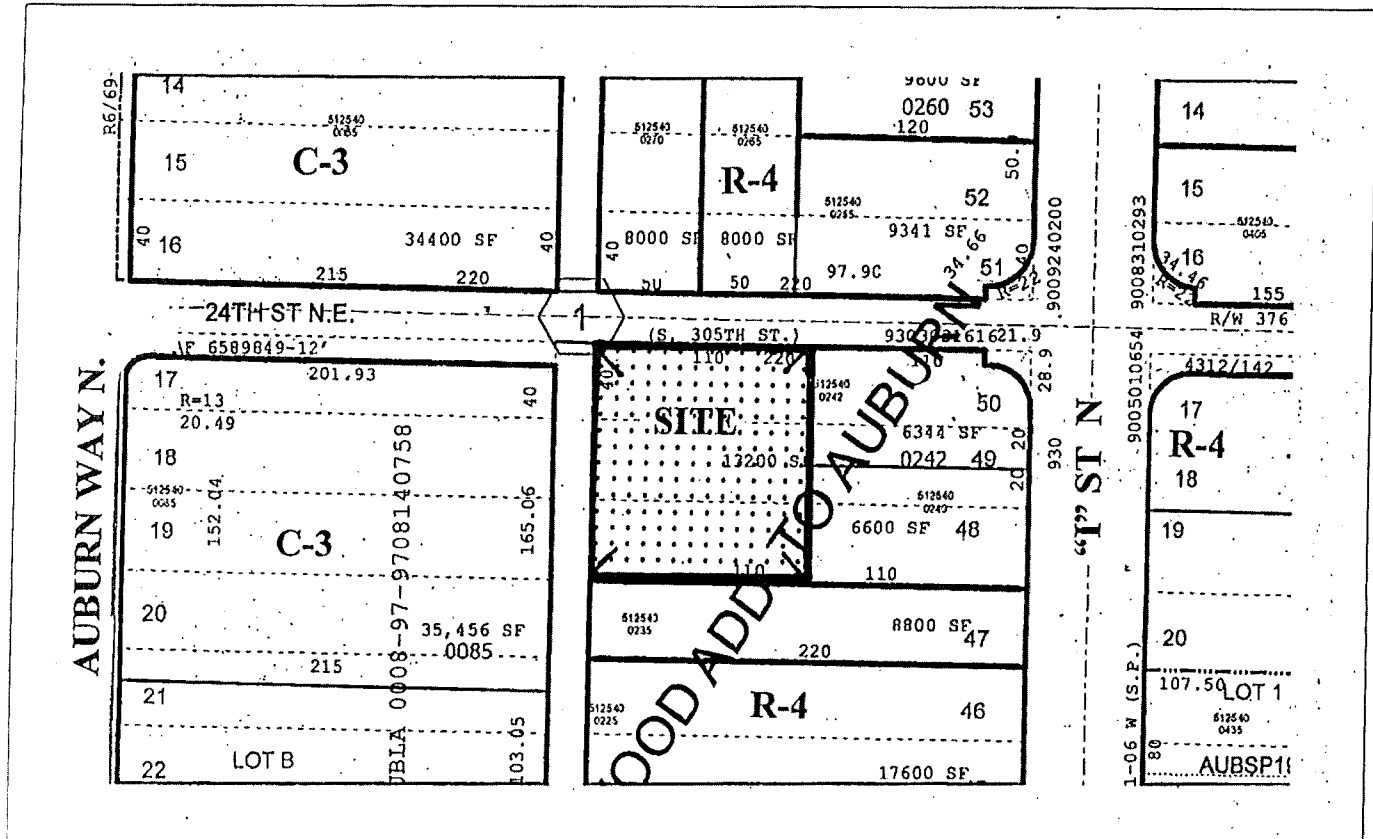
Hans A. Korge
Planning Manager
DMP Inc.

CRAIG COMMERCIAL

Comprehensive Plan / Re-Zone Request

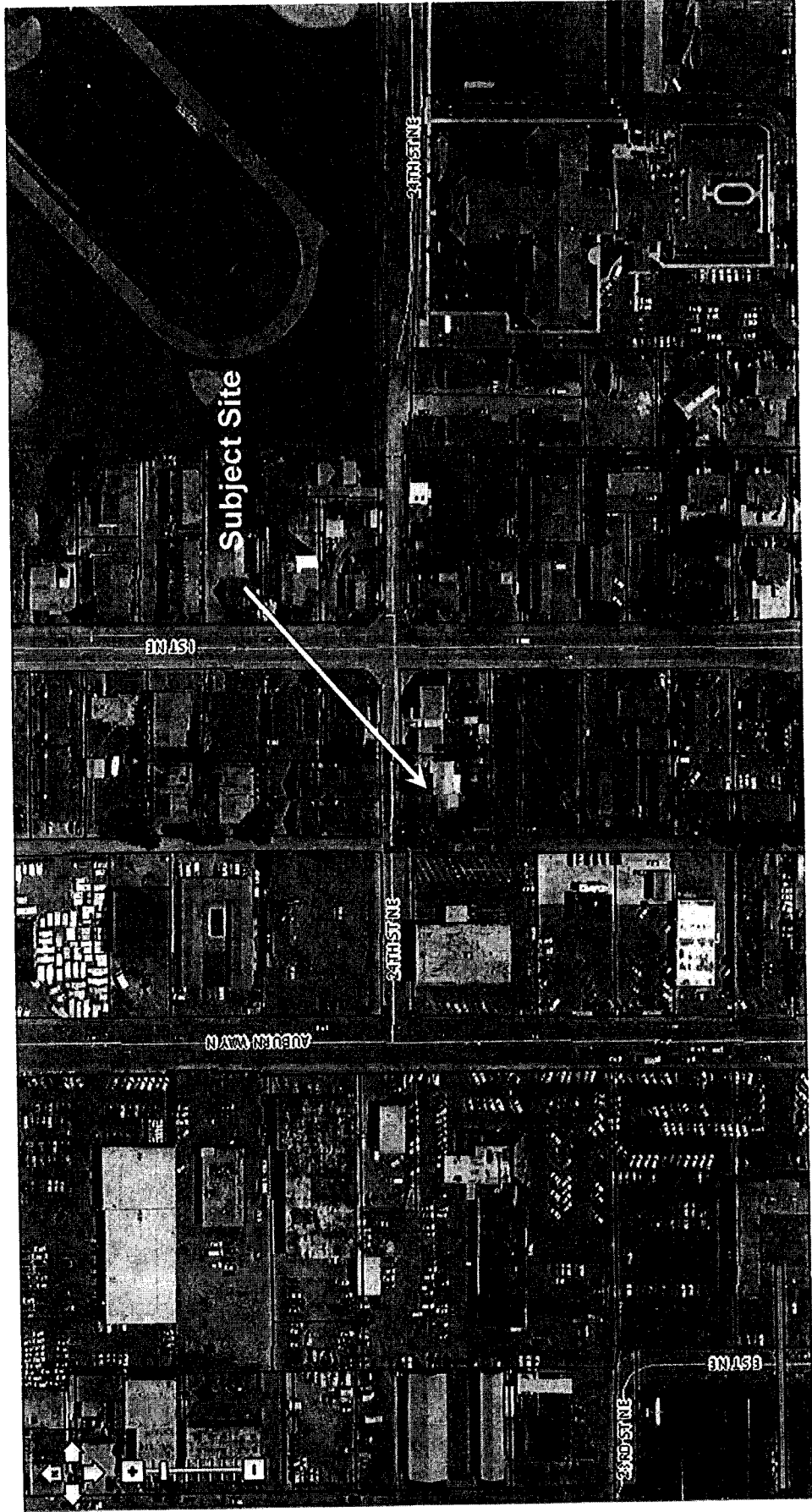
R-4 to C-3

High Density Residential to Heavy Commercial



Applicant proposes to rezone a 13,200 SF parcel from R-4 to C-3 and construct a 6 to 10 unit Apartment building through a conditional use permit application. The parcel is adjacent to the C-3 zone and the proposed Apartment development would be compatible with the adjacent town home project to the south. The project will be required to complete frontage improvements along 24th Street NE.

Aerial Photograph of Subject Site and Vicinity
802 24th Street NE
REZ09-0004 Craig Commercial Rezone



ORDINANCE NO. 6280

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RELATING TO PLANNING; ADOPTING COMPREHENSIVE PLAN MAP AND TEXT AMENDMENTS PURSUANT TO THE PROVISIONS OF REVISED CODE OF WASHINGTON (RCW) CHAPTER 36.70A

WHEREAS, the City of Auburn on August 18, 1986 adopted a Comprehensive Plan by Resolution No. 1703 which includes a Map establishing the location of the Comprehensive Plan Land Use Designations throughout the City; and

WHEREAS, on April 17, 1995 the City of Auburn adopted Comprehensive Plan Amendments by Resolution No. 2635 to comply with the Washington State Growth Management Act; and

WHEREAS, the City of Auburn on September 5, 1995 reaffirmed that action by Ordinance No. 4788; and

WHEREAS, the City of Auburn published in the Seattle Times and Auburn Reporter an advertisement that the City is accepted comprehensive plan amendment applications and established a deadline for submittal of June 19, 2009; and

WHEREAS, the City of Auburn received four private initiated amendments, three map amendments and one text amendment; and

WHEREAS, the text amendment was withdrawn; and

WHEREAS, Comprehensive Plan map and text amendments were processed by the Planning, Building, and Community Department as proposed Year 2009 amendments to the City of Auburn Comprehensive Plan; and

WHEREAS, maintaining a current Comprehensive Water Plan is required in order to meet regulations of the Washington State Department of Health under WAC 246-290-100 and requirements of the Growth Management Act under RCW 36.70A; and

WHEREAS, maintaining a current Comprehensive Sewer Plan is required in order to meet regulations of the Washington State Department of Ecology under RCW 90.48.100 and WAC 173-240-050 and requirements of the Growth Management Act under RCW 36.70A; and

WHEREAS, the updated Comprehensive Stormwater Drainage Plan is intended to replace the 2002 plan; and

WHEREAS, the City of Auburn is updating its Comprehensive Transportation Plan in order to address the annexation of Lea Hill and West Hill; and

WHEREAS, the environmental impacts of the Year 2009 Comprehensive Plan amendments were considered in accordance with procedures of the State Environmental Policy Act; and

WHEREAS, the proposed amendments were transmitted to the Washington State Office of Community Development and other State agencies for the 60 day review period in accordance with RCW 36.70A.106; and

WHEREAS, after proper notice published in the City's official newspaper at least ten (10) days prior to the date of hearing, the Auburn Planning Commission on

September 9, 2009, October 6, 2009, and November 4, 2009 conducted public hearings on the proposed amendments; and

WHEREAS, at the public hearing the Auburn City Planning Commission heard public testimony and took evidence and exhibits into consideration; and

WHEREAS, thereafter the Auburn City Planning Commission made recommendations to the City Council on the proposed Year 2009 Comprehensive Plan map and text amendments; and

WHEREAS, on November 16, 2009 the Public Works Committee of the Auburn City Council reviewed the Planning Commission's recommendations; and

WHEREAS, on November 23, 2009 the Planning and Community Development Committee of the Auburn City Council made a recommendation to the City Council; and

WHEREAS, on December 7, 2009, the Auburn City Council considered the proposed Comprehensive Plan amendments as recommended by the City of Auburn Planning Commission;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The 2009 Comprehensive Plan city-initiated Map Amendments are adopted and approved as set forth in Exhibit "A" attached hereto and incorporated herein by reference. The City Clerk is directed that they be filed along with this Ordinance and be available for public inspection.

Section 2. The 2009 Comprehensive Plan Text Amendments including the four school district Capital Facilities Plans, City of Auburn Capital Facilities Plan, City of Auburn Comprehensive Transportation Plan, City of Auburn Comprehensive Storm Drainage Plan, and amendments to various chapters in the Auburn Comprehensive Plan are adopted and approved as set forth in Exhibit "B" attached hereto and incorporated herein by reference. The City Clerk shall file them along with this Ordinance, and keep them available for public inspection

Section 3. The City of Auburn 2009 Comprehensive Water Plan is adopted and approved as set forth in Exhibit "C" attached hereto and incorporated herein by reference pending approval from the Washington State Department of Health. City staff is hereby authorized to make minor changes to the approved Comprehensive Water Plan based on comments received from the Washington State Department of Health. Substantive changes shall be approved by the Auburn City Council.

Section 4. The 2009 Comprehensive Sewer Plan is adopted and approved as set forth in Exhibit "D" attached hereto and incorporated herein by reference, pending comments received from the Washington State Department of Ecology and King County. City staff is hereby authorized to make minor changes to the approved Comprehensive Sewer Plan based on comments received from the Washington State Department of Ecology and/or King County. Substantive changes shall be approved by the Auburn City Council.

Section 5. Application CPA09-0002, Lyden and Lyden Comprehensive Plan Map Amendment, requesting a land use change from Light Industrial to Light

Commercial for property identified by parcel number 1221049020, is approved. The Council adopts the Planning Commission's recommendation dated October 6, 2009.

Section 6. Application CPA09-0004, Craig Commercial Comprehensive Plan Map Amendment, requesting a land use change from High Density Residential to Heavy Commercial for property identified by parcel number 5125400241, is approved. Council adopts the Planning Commission's recommendation dated October 6, 2009 and the findings and conclusions outlined in the staff report dated November 30, 2009.

Section 7. Application CPA09-0005, Riverside Village Comprehensive Plan Map Amendment, requesting a land use change from Moderate Density Residential to High Density Residential for property identified by parcel number 1721059163, is approved. Council adopts the Planning Commission's recommendation dated October 6, 2009 and the findings and conclusions outlined in the staff report dated November 30, 2009.

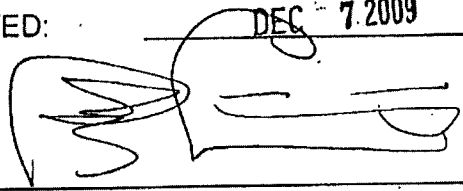
Section 8. The 2009 Comprehensive Plan amendments modify the Comprehensive Plan adopted on August 18, 1986 by Resolution No. 1703 and adopted by Ordinance No. 4788 on September 5, 1995.

Section 9. The adopted Comprehensive Plan as amended are designated as a basis for the exercise of substantive authority under the Washington State Environmental Policy Act by the City's responsible environmental official in accordance with RCW. 43.21C.060.

Section 10. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any of the Comprehensive Plan amendments adopted herein, is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 11. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation to include incorporating into one document the adopted Comprehensive Plan map and text amendments, attached hereto as Exhibit "A" and Exhibit "B" and preparing and publishing the amended Comprehensive Plan.

Section 12. Section 3 of this Ordinance shall take effect and be in force upon receipt of approval from the Washington State Department of Health. Section 4 of this Ordinance shall take effect and be in force upon receipt of approval from the Washington State Department of Ecology and King County. All other provisions of this Ordinance shall take effect and be in force five days from and after its passage, approval, and publication as provided by law.

INTRODUCED: DEC 7 2009
PASSED: DEC 7 2009
APPROVED: DEC 7 2009


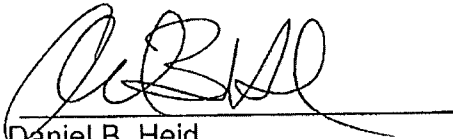
Peter B. Lewis
MAYOR

ATTEST:



Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:



Daniel B. Heid,
City Attorney

Published: December 10, 2009

Elizabeth Chamberlain

From: sjdire@comcast.net
Sent: Wednesday, January 13, 2010 12:20 AM
To: Elizabeth Chamberlain
Subject: Rezone Application REZ09-0004 Craig Commercial

Exhibit 12
Number of Pages 1

My name is Sam Di Re and I am the property owner of 2301 "I" St NE. This rezone proposal concerns me and my tenants as it increases density in an area where existing apartment complexes are poorly and inadequately managed or maintained. My property is in the minority in that area. I am one of few property owners who maintains my property and manages my tenants per Auburn ordinances and codes. Surrounding apartment units are in disrepair with property owners/managers allowing their tenants to scatter trash and abandon vehicles on their premises, disrupt the neighbors w/ load unruly behavior, and require frequent visits by the Auburn Police to resolve domestic disputes. My property has been used as a staging area for the police to gather before moving in on suspects in the apartment complex immediately south. Increasing density in the area to bring more uncontrolled residents is not the way to grow a city with a positive, strong reputation.

Another example of inappropriate zoning is the house constructed on the postage stamp lot at the SW corner of NE 24th St & I St NE. Packing more and more dwellings into this area just to bring in more tax revenue is not an acceptable way to grow the city of Auburn. First and foremost it is important that the City develop and follow a well thought out plan for the local area and provide proper enforcement of existing code violations. Adding even more density to an area that is in severe need of control is not the responsible way to grow the city and provide a safe environment for the families and local citizens.

If you have any questions or need more information, please give me a call.

Sam Di Re

Home: 425-226-8919